

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
NO. 1:15-CV-00399

Pursuant to the Order dated December 12, 2017 (D.E. 228), legislative defendants respectfully move the Court for leave to present the following witnesses at the hearing on the special master's report scheduled for January 5, 2018:

1. Douglas Johnson, PhD.

Dr. Johnson's *curriculum vitae* is attached. Dr. Johnson is expected to testify about the extent to which race predominated over other traditional redistricting criteria in the special master's proposed version of the challenged districts. Dr. Johnson is also expected to testify about the extent to which changes in districts in Wake and Mecklenburg Counties that did not adjoin unconstitutional districts were necessary in redrawing the unconstitutional districts. This testimony is necessary because it is directly related to the issues in the case and will refute plaintiffs' evidence and the special master's report.

2. Hank Henning, Guilford County Commissioner. Commissioner Henning is expected to testify about the effect of the special master's proposed plan on citizen representation in the area of Guilford County represented by Commissioner Henning. This testimony is necessary because it is directly related to the issues in the case and will refute plaintiffs' evidence and the special master's report.

3. Michael C. Boose, Cumberland County Commissioner. Commissioner Boose is expected to testify about the effect of the special master's proposed plan on citizen representation in the area of Cumberland County represented by Commissioner Boose. This testimony is necessary because it is directly related to the issues in the case and will refute plaintiffs' evidence and the special master's report.

4. Professor Nathaniel Persily

Legislative defendants request leave to cross-examine the special master. *See, e.g., J.B.N. Morris v. Homco Intern., Inc.*, 1987 WL 16818 (E.D. La. Sept. 8, 1987) (noting that court had allowed cross-examination of special master); *Casey v. Lewis*, 1993 WL 652786 (D. Az. Oct. 13, 1993) (allowing cross-examination of special master).

5. Rebuttal witnesses

Legislative defendants request leave to present rebuttal witnesses if the need arises depending on the testimony of any witnesses presented by plaintiffs.

WHEREFORE, legislative defendants respectfully move the Court for leave to present the above witnesses at the hearing on the special master's report scheduled for January 5, 2018.

This 15th day of December, 2017.

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

/s/ Phillip J. Strach
Phillip J. Strach
N.C. Bar No. 29456
Michael D. McKnight
N.C. Bar No. 36932
4208 Six Forks Road, Suite 1100
Raleigh, North Carolina 27609
Phone: (919) 787-9700
Facsimile: (919) 783-9412
Email: phil.strach@ogletreedeakins.com
Attorneys for Legislative Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of December, 2017, I have served the foregoing **LEGISLATIVE DEFENDANTS' MOTION TO PRESENT WITNESSES** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Edwin M. Speas, Jr.
Carolina P. Mackie
Poyner Spruill LLP
P.O. Box 1801 (27602-1801)
301 Fayetteville St., Suite 1900
Raleigh, NC 27601
espeas@poynerspruill.com
johale@poynerspruill.com
cmackie@poymerspruill.com
Attorneys for Plaintiffs

Allison J. Riggs
Southern Coalition for Social Justice
1415 Highway 54, Suite 101
Durham, NC 27707
anita@southerncoalition.org
allisonriggs@southerncoalition.org
Attorneys for Plaintiffs

Alexander McC. Peters
Senior Deputy Attorney General
N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

/s/ Phillip J. Strach
Phillip J. Strach
N.C. Bar No. 29456
4208 Six Forks Road, Suite 1100
Raleigh, North Carolina 27609
Phone: (919) 787-9700
Facsimile: (919) 783-9412
Email: phil.strach@ogletreedeakins.com

32348095.1

32348095.1